

Appl. No. : 10/764,266  
Filed : January 22, 2004

### **REMARKS**

The May 5, 2005 Office Action was based upon pending Claims 2-34. This response amends Claims 2, 4, 18 and 20 and cancels Claims 3 and 19. Thus, after entry of this response, Claims 2, 4-18 and 20-34 are pending and presented for further consideration.

#### **Claim Rejections**

In the May 5, 2005 Office Action, the Examiner rejected Claims 2 and 18 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,710,818 to Yamato, et al. ("the Yamato patent").

Further, the Examiner rejected Claims 2 and 18 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 4, 7-10, 32, 24 and 25 of U.S. Patent 6,718,039 to Klayman ("the Klayman patent"). This Klayman patent is the parent of the currently pending application.

The Examiner also objected to Claims 3-17 and 19-34 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Examiner Interview**

Applicant would like to thank Examiner Pendleton for the interview extended to Applicant's counsel of record, John R. King, on June 3, 2005. During the interview, it was Applicant's understanding that the Examiner agreed that the amendments to Claims 1 and 18 clarified the patentably distinguishing features of the invention. Accordingly, Applicant has also amended Claim 21 along the lines discussed in the interview.

Reconsideration of the pending claims, as amended, is therefore respectfully requested.

#### **Rejection of Claims 2 and 18 under 35 U.S.C. §102(e)**

In the May 5, 2005 Office Action, the Examiner rejected Claims 2 and 18 under 35 U.S.C. §102(e) as being anticipated by the Yamato patent.

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While Applicant disagrees with the rejection, Applicant has amended Claim 2 to include the limitation of allowed Claim 3. In addition, Applicant amended Claim 18 to include the limitation of allowed Claim 19.

Applicant therefore respectfully submits that Claims 2 and 18 are patentably distinguished over the cited references and Applicant respectfully requests allowance of Claims 2 and 18.

#### **Rejection of Claims 2 and 18 for Double Patenting**

The Examiner rejected Claims 2 and 18 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the Klayman patent.

In response, Applicant submits herewith a Terminal Disclaimer in compliance with 37 C.F.R. §1.321(b) and (c). Applicant respectfully requests that the double patenting rejection be withdrawn.

#### **Allowable Subject Matter**

The Examiner also objected to Claims 3-17 and 19-34 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

During the interview it was Applicant's understanding that the Examiner believed a terminal disclaimer was also necessary for Claims 3-17 and 19-34. In addition, it was Applicant's understanding that the Examiner had assumed that Claims 4-17 depended from Claim 3 and that likewise Claims 20-34 depended from Claim 19.

Accordingly, Applicant has canceled Claim 3 and amended Claim 2 to include the limitations of Claim 3. Likewise, Applicant has canceled Claim 19 and amended Claim 18 to include the limitations of Claim 19. In addition, Applicant submits a terminal disclaimer herewith.

#### **Request For Telephone Interview**

Pursuant to M.P.E.P. § 713.01, in order to expedite prosecution of this application, Applicant's undersigned attorney of record hereby formally requests a telephone interview with the Examiner as soon as the Examiner has considered the

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effect of the arguments presented above. Applicant's attorney can be reached at (949) 721-2998 or at the number listed below.

**Conclusion**

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of the above remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 8/1/05

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